

Senate Bill 296

By: Senators Hamrick of the 30th, Thomas of the 54th and Unterman of the 45th

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health planning and development, so as to revise certain definitions; to change exemptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health planning and development, is amended by revising paragraphs (5), (7), (8), and (14) of Code Section 31-6-2, relating to definitions, as follows:

"(5) 'Clinical health services' means diagnostic, treatment, or rehabilitative services provided in a health care facility, or parts of the physical plant where such services are located in a health care facility, and includes, but is not limited to, the following: ~~radiology and diagnostic imaging, such as magnetic resonance imaging and positron emission tomography;~~ radiation therapy; biliary lithotripsy; surgery; intensive care; coronary care; pediatrics; gynecology; obstetrics; general medical care; medical/surgical care; inpatient nursing care, whether intermediate, skilled, or extended care; cardiac catheterization; open-heart surgery; inpatient rehabilitation; and alcohol, drug abuse, and mental health services."

"(7) 'Develop,' with reference to a project, means:

(A) Constructing, remodeling, installing, or proceeding with a project, or any part of a project, or a capital expenditure project, the cost estimate for which exceeds ~~\$900,000.00~~ \$2 million; or

(B) The expenditure or commitment of funds exceeding ~~\$500,000.00~~ \$2 million for orders, purchases, leases, or acquisitions through other comparable arrangements of major medical equipment; provided, however, that this shall not apply to radiology and diagnostic imaging equipment, including but not limited to magnetic resonance imaging and positron emission tomography.

Notwithstanding subparagraphs (A) and (B) of this paragraph, the expenditure or commitment or incurring an obligation for the expenditure of funds to develop certificate of need applications, studies, reports, schematics, preliminary plans and specifications, or working drawings or to acquire, develop, or prepare sites; for the construction of a parking deck or additional parking deck; or the remodeling or renovation of a health care facility if it does not change or modify the scope or type of service being provided, shall not be considered to be the developing of a project."

"(8) 'Health care facility' means hospitals; other special care units, including but not limited to podiatric facilities; skilled nursing facilities; intermediate care facilities; personal care homes; ~~ambulatory surgical or obstetrical facilities~~; health maintenance organizations; home health agencies; diagnostic, treatment, or rehabilitation centers, but only to the extent that subparagraph (G) or (H), or both subparagraphs (G) and (H), of paragraph (14) of this Code section are applicable thereto; and facilities which are devoted to the provision of treatment and rehabilitative care for periods continuing for 24 hours or longer for persons who have traumatic brain injury, as defined in Code Section 37-3-1."

"(14) 'New institutional health service' means:

(A) The construction, development, or other establishment of a new health care facility;

(B) Any expenditure by or on behalf of a health care facility in excess of ~~\$900,000.00~~ \$2 million which, under generally accepted accounting principles consistently applied, is a capital expenditure, except expenditures for acquisition of an existing health care facility not owned or operated by or on behalf of a political subdivision of this state, or any combination of such political subdivisions, or by or on behalf of a hospital authority, as defined in Article 4 of Chapter 7 of this title or certificate of need owned by such facility in connection with its acquisition;

(C) Any increase in the bed capacity of a health care facility except as provided in Code Section 31-6-47;

(D) Clinical health services which are offered in or through a health care facility, which were not offered on a regular basis in or through such health care facility within the 12 month period prior to the time such services would be offered;

(E) Any conversion or upgrading of a facility such that it is converted from a type of facility not covered by this chapter to any of the types of health care facilities which are covered by this chapter;

(F) The purchase or lease by or on behalf of a health care facility of diagnostic or therapeutic equipment with a value in excess of ~~\$500,000.00~~ \$800,000.00; provided, however, that this shall not apply to radiology and diagnostic imaging equipment,

1 including, but not limited to, magnetic resonance imaging and positron emission  
 2 tomography. The acquisition of one or more items of functionally related diagnostic or  
 3 therapeutic equipment shall be considered as one project;

4 (G) Clinical health services which are offered in or through a diagnostic, treatment, or  
 5 rehabilitation center which were not offered on a regular basis in or through that center  
 6 within the 12 month period prior to the time such services would be offered, but only  
 7 if the clinical health services are any of the following:

8 (i) Radiation therapy;

9 (ii) Biliary lithotripsy;

10 (iii) Surgery in an operating room environment, including but not limited to  
 11 ambulatory surgery; provided, however, that this provision shall not apply to ~~surgery~~  
 12 ~~performed in the offices of an individual private physician or single group practice of~~  
 13 ~~private physicians if such surgery is performed in a facility that is owned, operated,~~  
 14 ~~and utilized by such physicians who also are of a single specialty and the capital~~  
 15 ~~expenditure associated with the construction, development, or other establishment of~~  
 16 ~~the clinical health service does not exceed the amount of \$1 million~~ freestanding  
 17 ambulatory surgical or obstetrical facilities; and

18 (iv) Cardiac catheterization; or

19 (H) The purchase, lease, or other use by or on behalf of a diagnostic, treatment, or  
 20 rehabilitation center of diagnostic or therapeutic equipment with a value in excess of  
 21 ~~\$500,000.00~~ \$800,000.00; provided, however, that this shall not apply to radiology or  
 22 diagnostic imaging equipment, including, but not limited to, magnetic resonance  
 23 imaging and positron emission tomography equipment. The acquisition of one or more  
 24 items of functionally related diagnostic or therapeutic equipment shall be considered  
 25 as one project except for radiology and diagnostic imaging, such as magnetic resonance  
 26 imaging and positron emission tomography.

27 The dollar amounts specified in subparagraphs (B), (F), and (H) of this paragraph;  
 28 ~~division (iii) of subparagraph (G) of this paragraph, and of~~ and in paragraph (7) of this  
 29 Code section shall be adjusted annually by an amount calculated by multiplying such  
 30 dollar amounts (as adjusted for the preceding year) by the annual percentage of change  
 31 in the composite construction index, or its successor or appropriate replacement index,  
 32 if any, published by the Bureau of the Census of the Department of Commerce of the  
 33 United States government for the preceding calendar year, commencing on July 1, ~~1991~~  
 34 2008, and on each anniversary thereafter of publication of the index. The department  
 35 shall immediately institute rule-making procedures to adopt such adjusted dollar amounts.  
 36 In calculating the dollar amounts of a proposed project for purposes of subparagraphs (B),  
 37 (F), and (H) of this paragraph, ~~division (iii) of subparagraph (G) of this paragraph, and~~

1 of and in paragraph (7) of this Code section, the costs of all items subject to review by  
2 this chapter and items not subject to review by this chapter associated with and  
3 simultaneously developed or proposed with the project shall be counted, except for the  
4 expenditure or commitment of or incurring an obligation for the expenditure of funds to  
5 develop certificate of need applications, studies, reports, schematics, preliminary plans  
6 and specifications or working drawings, or to acquire sites."

## 7 SECTION 2.

8 Said chapter is further amended by revising subsection (a) of Code Section 31-6-47, relating  
9 to exemptions, as follows:

10 "(a) Notwithstanding the other provisions of this chapter, this chapter shall not apply to:

11 (1) Infirmaries operated by educational institutions for the sole and exclusive benefit of  
12 students, faculty members, officers, or employees thereof;

13 (2) Infirmaries or facilities operated by businesses for the sole and exclusive benefit of  
14 officers or employees thereof, provided that such infirmaries or facilities make no  
15 provision for overnight stay by persons receiving their services;

16 (3) Institutions operated exclusively by the federal government or by any of its agencies;

17 (4) Offices of private physicians or dentists whether for individual or group practice,  
18 except as otherwise provided in ~~subparagraphs (G) and~~ subparagraph (H) of paragraph  
19 (14) of Code Section 31-6-2;

20 (5) Christian Science sanatoriums operated or listed and certified by the First Church of  
21 Christ Scientist, Boston, Massachusetts;

22 (6) Site acquisitions for health care facilities or preparation or development costs for  
23 such sites prior to the decision to file a certificate of need application;

24 (7) Expenditures related to adequate preparation and development of an application for  
25 a certificate of need;

26 (8) The commitment of funds conditioned upon the obtaining of a certificate of need;

27 (9) Expenditures for the acquisition of existing health care facilities by stock or asset  
28 purchase, merger, consolidation, or other lawful means unless the facilities are owned or  
29 operated by or on behalf of a:

30 (A) Political subdivision of this state;

31 (B) Combination of such political subdivisions; or

32 (C) Hospital authority, as defined in Article 4 of Chapter 7 of this title;

33 (9.1) Expenditures for the restructuring of or for the acquisition by stock or asset  
34 purchase, merger, consolidation, or other lawful means of an existing health care facility  
35 which is owned or operated by or on behalf of any entity described in subparagraph (A),  
36 (B), or (C) of paragraph (9) of this subsection only if such restructuring or acquisition is

made by any entity described in subparagraph (A), (B), or (C) of paragraph (9) of this subsection;

(10) Expenditures for the minor renovation, remodeling, or repair of a health care facility, or parts thereof or services provided or equipment used therein, or the acquisition or replacement of equipment, including, but not limited to, magnetic resonance imaging equipment, positron emission tomography, and CT scanners;

(11) Capital expenditures otherwise covered by this chapter required solely to eliminate or prevent safety hazards as defined by federal, state, or local fire, building, environmental, occupational health, or life safety codes or regulations, to comply with licensing requirements of the Department of Human Resources, or to comply with accreditation standards of the Joint Commission on Accreditation of Hospitals;

(12) Cost overruns whose percentage of the cost of a project is equal to or less than the cumulative annual rate of increase in the composite construction index, published by the Bureau of the Census of the Department of Commerce, of the United States government, calculated from the date of approval of the project;

(13) Transfers from one health care facility to another such facility of major medical equipment previously approved under or exempted from certificate of need review, except where such transfer results in the institution of a new clinical health service for which a certificate of need is required in the facility acquiring said equipment, provided that such transfers are recorded at net book value of the medical equipment as recorded on the books of the transferring facility;

(14) New institutional health services provided by or on behalf of health maintenance organizations or related health care facilities in circumstances defined by the department pursuant to federal law;

(15) Increases in the bed capacity of a hospital up to ten beds or 10 percent of capacity, whichever is less, in any consecutive two-year period, in a hospital that has maintained an overall occupancy rate greater than 85 percent for the previous 12 month period; ~~and~~

(16) Capital expenditures for a project otherwise requiring a certificate of need if those expenditures are for a project to remodel, renovate, replace, or any combination thereof, a medical-surgical hospital and:

(A) That hospital:

(i) Has a bed capacity of not more than 50 beds;

(ii) Is located in a county in which no other medical-surgical hospital is located;

(iii) Has at any time been designated as a disproportionate share hospital by the Department of Community Health; and

(iv) Has at least 45 percent of its patient revenues derived from medicare, Medicaid, or any combination thereof, for the immediately preceding three years; and

1 (B) That project:

2 (i) Does not result in any of the following:

3 (I) The offering of any new clinical health services;

4 (II) Any increase in bed capacity;

5 (III) Any redistribution of existing beds among existing clinical health services; or

6 (IV) Any increase in capacity of existing clinical health services;

7 (ii) Has at least 80 percent of its capital expenditures financed by the proceeds of a  
8 special purpose county sales and use tax imposed pursuant to Article 3 of Chapter 8  
9 of Title 48; and

10 (iii) Is located within a three-mile radius of and within the same county as the  
11 hospital's existing facility; and

12 (17) Freestanding ambulatory surgical centers, including, but not limited to, those  
13 owned, operated, and utilized by physicians, including general surgeons."

14 **SECTION 3.**

15 All laws and parts of laws in conflict with this Act are repealed.